TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1955

No. 95

JUDSON GRIFFIN AND JAMES CRENSHAW,
PETITIONERS,

vs.

PEOPLE OF THE STATE OF ILLINOIS

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS

PETITION FOR CERTIORARI FILED JANUARY 10, 1955

CERTIORARI GRANTED MAY 23, 1955

SUPREME COURT OF THE UNITED STATES

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No. 95.

JUDSON GRIFFIN AND JAMES CRENSHAW, PETITIONERS,

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PEOPLE OF THE STATE OF ILLINOIS

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS

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3 In the Supreme Court for the State of Illinois

No. 1860

September Term, A. D., 1954

PEOPLE OF THE STATE OF ILLINOIS, DEFENDANT IN ERROR

vs.

JUDSON GRIFFIN; JAMES CRENSHAW; PLAINTIFFS IN ERROR

STATE OF ILLINOIS,
County of Will, ss:

AFFIDAVIT IN FORMA PAUPERIS

JUDSON GRIFFIN AND JAMES CRENSHAW, upon their oaths, deposes and says that they verily believe that they have a good, valid and meritorious cause of action; that they have no money or other means to pay the cost in this cause and that they pray leave to be granted the right to proceed and prosecute this said cause to a full and final conclusion in accordance with the provisions of the Illinois Statutes in such cases.

JUDSON GRIFFIN, *Pro se.*
JAMES CRENSHAW, *Pro se.*

Subscribed and sworn to before me this 17th day of August, A. D. 1954.

LEO H. GAMBREL,
Notary Public.

4 [Title Omitted]

IN THE SUPREME COURT FOR THE STATE OF ILLINOIS

No. 1860

PETITION—Filed October 14, 1954

To: The Honorable, The Chief Justice and Associate Justices of the Supreme Court for the State of Illinois.

May It Please The Court:

NOW COMES JUDSON GRIFFIN AND JAMES CRENSHAW, plaintiffs in error in the above-entitled cause, by and through themselves, to

seek a review of the final order and judgment of the Criminal Court of Cook County, as was had in the said trial court in a proceedings docketed under cause No. P. C. 512.

The plaintiff in error, and petitioners herein, were denied a hearing and relief for constitutional error which occurred in the proceedings in which they were convicted and they hereby petition this Honorable Court for review of the judgment entered by the trial court (dismissing the proceedings filed under cause No. P. C. 512) on the first day of July, A. D. 1954.

That inasmuch as the said proceedings in P. C. No. 512 were dismissed on the 1st day of July, A. D. 1954, it is the plaintiffs claim that the Criminal Court of Cook County thereby is in error for the following reasons, to-wit:

Assignment of Errors

I

The Trial Court erred in dismissing the plaintiffs post-conviction petition on the ground that said petition failed to state a violation of their constitutional rights without a hearing on the merits.

II

Denial of the stenographic reports of trial proceedings to an indigent defendant is a denial of the equal protection clause of the Fourteenth Amendment to the United States Constitution in a State which has a system of criminal appeals.

Concise Statement of Facts

The plaintiffs Judson Griffin and James Crenshaw were convicted as co-defendants on Indictment No. 53-1483 which alleged a charge of Robbery while Armed. Judgment of conviction was entered on December —, 1953, in the Criminal Court of Cook County following a Bench Trial before the Honorable Edward B. Casey, presiding Judge.

The defendant Judson Griffin was sentenced to a term of not less than five (5) years nor more than ten (10) years in the Illinois State Penitentiary. The defendant James Crenshaw was sentenced to a term of not less than ten (10) years nor more than fifteen (15) years in the Illinois State Penitentiary.

Following the entry of judgment at the trial in which the plaintiffs were convicted their counsel made motions for a New Trial and in Arrest of Judgment, which were overruled by the trial court. Subsequently the plaintiffs acting by and through themselves filed a written motion in the trial court entitled "Motion for Transcript

OF PROCEEDINGS AND COURT RECORDS WITHOUT COST." Said motion alleged in substance, as follows:

"the petitioners move the court for a complete certified copy of the Common-law Record and the Transcript of Proceedings without cost to enable them to file a Bill of Exceptions and prosecute a direct appeal, within the time required by law to the Illinois Supreme Court to seek redress and protection of their legal and constitutional rights."

"That they verily believe that there are appealable errors and substantial infractions of constitutional rights under the State and Federal Constitutions that merit appellate review in order to insure justice in the fullest protection of the petitioners legal and constitutional rights."

"That the petitioners are poor persons with no means of paying the necessary fees, to acquire the Transcript and Court Records needed to prosecute an appeal from their convictions; that the denial of the Transcript will effectively preclude and bar them from obtaining justice, and the judgment of the Illinois Supreme Court, and possibly the United States Supreme Court on certain infringements of rights protected by the State and Federal Constitutions."

"That were the petitioners under sentence of death, the State of Illinois would provide to them without cost a complete certified Transcript to prosecute an appeal; that the petitioners herein are entitled to the same equal protection of the laws of Illinois in order to obtain justice and safeguard their legal and constitutional rights."

"That failure of the State of Illinois to provide without cost to these poor and destitute defendants a Transcript of the trial proceedings and other vital Court Records necessary to prosecute their appeal or writ of error, as of right, would be an unfair advantage of a sovereignty over one of its citizens, and an effective deterrent to the petitioners seeking "direct review" of their conviction in violation of the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.

The above and foregoing motion set forth in substance was denied on February 2nd. 1954, by the Chief Justice of the Criminal Court of Cook County, and a petition was filed under the Illinois Post-Conviction Hearing Act subsequent to the denial of the aforesaid Motion for Transcript without Costs, which alleged that:

"Denial of the stenographic reports of trial proceedings to an indigent defendant is a denial of the equal protection clause of the Fourteenth Amendment to the United States Constitution in a state which has a system of criminal appeals."

7 In short, the plaintiffs contend that they are entitled to the same review that a defendant under sentence of death is entitled to by Illinois statutory law when indigence is alleged; or that they should be discharged for failure to convict them in proceedings which affords them the equal protection of the laws as guaranteed by the United States Constitution. Because they are being held in custody in violation of their Constitutional Rights.

The plaintiffs alleged that they verily believe that there is manifest error in the record and proceedings in which they were convicted and that the only way that they can have these errors reviewed in the safeguarding of their legal right to a fair and impartial trial is by "direct review". And that the only impediment to their seeking "direct review" is lack funds to obtain the Transcript and have it filed as a Bill of Exceptions. If the plaintiffs are to be denied "direct review" because they cannot afford the cost of the transcript, the Criminal Court of Cook County becomes a court of last resort to a "poor man". Perhaps that is the reason for many years the Criminal Court has been guilty of many cases of "Roy Bean" justice.

The plaintiffs have attached their Memorandum of Authorities and an Appendix "A" in support of this petition for writ of error.

WHEREFORE, IT IS RESPECTFULLY PRAYED that a writ of error be granted and that a full and fair review be had on the merits and that the plaintiffs be allowed to stand on their petition in lieu of following abstracts and briefs.

Respectfully submitted,

JUDSON GRIFFIN, *Pro se*
JAMES CRENSHAW, *Pro se*.

8 MEMORANDUM OF AUTHORITIES

1

Denial of the Stenographic Reports of Trial Proceedings to an Indigent Defendant is a Denial of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution in a State which has a System of Criminal Appeals.

The petitioners herein wish to make it clear at the outset that they are not claiming that they have a Constituional right to an appeal under the Constitution of Illinois or the Constitution of the United States. The essential issue at bar is confined to the vital claim that these petitioners are being denied Equal Protection of the law contrary to the Constitution of the United States by being denied the right to seek appellate review of their convictions which they claim was had by manifest error that deprived them of a fair and impartial trial.

No one can rightly say that the Constitution of the United States by its Fourteenth Amendment, particularly under its Equal Protection Clause, allows a State to discriminate against what defendants shall have the right to seek appellate review. Therefore, the petitioners challenge the constitutionality of their convictions on the grounds that are being denied the right to seek appellate review because they are not under sentence of death and are without funds to pay the cost for transcription of the shorthand notes taken at the proceedings in which they were convicted, and which are necessary to the filing of a bill of exception upon which manifest error can be assigned for review to determine whether the petitioners
9 had a fair and impartial trial in accordance with the fundamental precepts of law.

Chapter 38, Sec. 769a, of the Illinois Revised Statutes (1953) provide as follows:

> "In any prosecution for a capital offense, where the sentence is death, the trial court, if satisfied that the person convicted is a poor person and unable to prosecute his writ of error and pay the costs and expenses thereof, shall enter an order that such person be allowed to prosecute his writ of error as a poor person and thereupon all necessary costs and expenses incident to such writ of error, including all court costs, stenographic services and printing, but not including fees or compensation for legal services, shall be paid by the county in which the conviction was had, upon the approval of the judge of such court."

The petitioners contend that it is grossly unfair and discriminatory for the State of Illinois to provide legislation to provide the necessary transcript and records to defendants singled out of the "common situation" of being convicted for a felonious crime. There is no real distinction to warrant legislation granting the court records to a defendant under sentence of death and one sentenced to life imprisonment or for any term of years in the penitentiary. All defendants convicted under the classification of felonious offenders are one common group and should be treated equally and impartially under the law governing trial and review for felons.

The United States Supreme Court has held in *United States v. Reese*, 92 U.S. 214, that:

> "The term due process implies that right of life, liberty and property of each individual shall be determined by general rules which shall apply to all who have similar rights or similarly situated with reference thereto. It negatives any form of procedure which arbitrarily singles out an individual or class of individuals and permits them to be dealt with arbitrarily and unreasonably different from that in which others similarly situated are dealt with."

10 The Honorable United States Supreme Court has held time and time again that "Any effective deterrent or bar to a convicted person obtaining direct review of his case is a denial of due process of law." Cf. *Cochran* v. *Kansas*, 16 U.S. 255; *Dowd* v. *United States, ex rel Cook*, 340 U.S. 206.

Illinois has a strange conception of fair play, indeed, when one considers that the legislature has enacted law to give the trial courts authority to order the transcripts or shorthand notes of trial proceedings for use at hearings under The Illinois Post-Conviction Hearing Act under the newly enacted provision of "Section 6" of Chapter 37, sec. 163F, Illinois Revised Statutes (1953). But the State of Illinois fails to allow a poor person a transcript to seek "direct review" unless under sentence of death. Yet over thirty (30) other states provide legislation for indigent defendants to seek direct review by bill of exceptions or its equivalent. See *Appendix* —"A" attached hereto. The United States Government provides transcripts to poor persons and even England provides for a method of review to destitute defendants to be paid for with monies provided by Parliament. Therefore, in view of the theory that the "majority rule" it must be deemed vital that a poor person is entitled to avail himself of review of his conviction without "deterrents" of any kind. Otherwise, an indigent defendant is left to the caprice and arbitrary action of a prejudiced judge who, well-knowing that the defendant cannot afford the cost of review, will wilfully allow errors to prejudice the defendant's right to a fair and impartial trial. And God knows that every defendant tried in Cook County, especially, should at least be allowed the right to have his record reviewed by an appellate court, because the stench of
11 Cook County's partisan and questionable justice has been well publicized as shamefully inadequate.

The merit of petitioners' allegation is well founded upon the words of the Honorable Mr. Justice Frankfurter, dissenting, in *Jennings* v. *Illinois*, 342 U.S. 104, as follows:

> "Is then the federal claim the denial by Illinois of stenographic minutes of a trial to an indigent defendant? I appreciate that such a denial might be found to be in violation of the Fourteenth Amendment, and more particularly of its Equal Protection Clause, in a State which has a system of criminal appeals . . ."

The above question has never been specifically gone into by this Honorable Court or the United States Supreme Court—but it is a question that must be answered. Certainly if Mr. Justice Frankfurter himself appreciates the merit of such a claim should be enough in itself to cause one to stand up and take notice of the possibility of the denial as set forth herein.

Conclusion

It is suggested that this Honorable Court grant a writ of error and fully review the question as to whether or not denial of the transcript to an indigent defendant in the State of Illinois under the conditions set forth above and in the foregoing petition for writ of error is a denial of Due Process and Equal Protection of the laws contrary to the United States Constitution.

Respectfully submitted,

Judson Griffin, *Pro se.*
James Crenshaw, *Pro se.*
Petitioners.

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Appendix—"A"

State Statutory Provisions on Cost of Transcript

1. States permitting indigent defendants in criminal proceedings to obtain without cost transcript of trial proceedings, or its equivalent, for purposes of appeal.

Arizona: Ariz. Code Ann. (1939) 44-2525.
Arkansas: Ark. Stat. Anno. (1942) 22-357
California: Deering's Civil Procedure and Probate Code (1949) § 274.
Connecticut: Conn. Gen. Stat. (1949) Ch. 170, Sec. 3615; ch. 429, Sec. 8796 (Public Defender Statute. By letter from the Clerk of the Connecticut Supreme Court it was established that these provisions authorize the defendant to obtain the record without cost.)
Delaware: Del. Rev. Code (1935) ch. 108, Sec. 4226.
Florida: Fla. Stat. Ann. (1944) Sec. 924.23.
Idaho: Idaho Code (1948) Sec. 19-2402.
Indiana: Burns, Ind. Stat. (1946), Sec. 4-3511.
Iowa: Iowa Code Ann. (1950) 793.8.
Kentucky: Ky. Rev. Stat. (1948) Sec. 28.460.
Louisiana: La. Rev. Stat. (1950), Title 15, Sec. 555.
Massachusetts: Ann. Laws (1933) ch. 278, Sec. 33. Sec. 33(a).
Michigan: Mich. Stat. Ann. (1938) Sec. 27.341.
Mississippi: Miss. Code (1944) Sec. 1640.
Missouri: Mo. Rev. Stat. (1943) Sec. 13354.
Montana: Mont. Rev. Codes (1949) T. 93-1904.
Nebraska: Neb. Rev. Stat. (1948) Sec. 24-342.
Nevada: Nevada Stats. (1949) ch. 60.
New York: 66 McKinney's Cons. Laws (1945) Criminal Code, Sec. 456.
North Carolina: N. C. Gen. Stat. (1944) sec. 9-89.
North Dakota: N. C. Rev. Code (1944) 27:0606.
Ohio: Page's Ohio Gen. Code (1938) sec. 1552.
Oklahoma: 20 Okla. Stat. (1937) sec. 111.

Oregon: Ore. Comp. L. Ann. (1940) 93-276.

South Carolina: S. C. Code (1942) sec. 596.

Tennessee: Williams' Tenn. Code (1934) sec. 8819, sec. 1108, letter of Clerk of Supreme Court of Tennessee indicates that a defendant may appeal with a narrative bill of exceptions thus obviating the necessity of a stenographic record).

Texas: Vernon's Code of Crim. Procedure (1950) Art. 760.

Utah: Utah Code Ann. (1934) 21-0-8.

Virginia: Va. Code Ann. (1950) sec. 8-330. (Letter of Clerk of Supreme Court of Virginia indicates that a defendant may appeal with a narrative bill of exceptions thus obviating the necessity of a stenographic record).

Washington: Remington's Wash. Rev. Stat. (1932) sec. 42-5.

Wisconsin: Wis. Stats. (1945) Sec. 252.20.

2. States permitting defendants to obtain transcript without cost in special cases.

Illinois: Smith-Hurd Ill. Ann. Stat. (1935) ch. 38, sec. 769a. (Only when death penalty is imposed).

New Jersey: N. J. Stats. Ann. (1939) 2:195-22 (Only when conviction is for first degree murder and sentence is death).

Pennsylvania: 19 Purdon's Stat. (1930) sec. 1232 (Only when conviction is for first degree murder).

Vermont: Ver. Stat. Rev. (1947) sec. 1421. (Only when sentence is death or imprisonment for ten years or more).

14 [Caption omitted]

In the Criminal Court of Cook County

Post Conviction No. 512

JUDSON GRIFFIN AND JAMES CRENSHAW, PETITIONERS,

vs.

THE PEOPLE OF THE STATE OF ILLINOIS, RESPONDENT.

ORDER DISMISSING PETITION—July 1, 1954

This day come the said Respondent, The People of the State of Illinois, by John Gutknecht, State's Attorney and the said Petitioners, Judson Griffin and James Crenshaw, by their Counsel also comes.

This cause coming on before the Court for a Hearing under the Post-Conviction Hearing Act upon the Petition of said Petitioners, Judson Griffin and James Crenshaw, and Motion to Dismiss the

Petition of the Respondent, The People of the State of Illinois heretofore filed herein.

15-18 And the Court hearing the Argument of Counsel for said Petitioners Judson Griffin and James Crenshaw, in support of said Petition as well as in opposition thereto by the State's Attorney, Counsel for the Respondent, The People of the State of Illinois, and the Court being fully advised in the premises doth sustain the Motion of the Respondent, to dismiss the Petition herein and orders that the prayer of said petitioners be and the same is hereby denied and the proceeding dismissed.

19 In the Criminal Court of Cook County

PETITION UNDER THE POST-CONVICTION HEARING ACT—Filed April 26, 1954.

[Title omitted]

To: The Honorable Judges assigned by the Executive Committees of Circuit and Superior courts as *ex-officio* Judges of criminal court of Cook county.

May it please the court.

Now comes Judson Griffin and James Crenshaw, the petitioner's in the above entitled asking leave of this court to file their petition in compliance with the provisions of the Illinois Post-Conviction Hearing act, ch. 38, sec. 826-832, Ill. rev. stat. (1949). And their petition now have represents the following facts, to wit:

(1). That your petitioner's are poor person- and have not the property or other means with which to pay the cost of these proceedings.

(2). That because of their porverty, petitioner's have no means with — to procure the complete records had in cause No. 53-1483, said records are on file in the office of the Chief clerk and in the office of the Official court reporters in the criminal court building. Wherefore, petitioner's pray to be allowed access to said records when this cause comes on for hearing before this court.

(3). Statements on counsel: your petitioner's wish that this Honorable court appoint Attorney Calvin Sawyer or Don Rugbey, members of the Chicago Bar Association, to represent them in the above entitled cause.

(4). Your petitioner's further represents, that they are now imprisoned in the Illinois State penitentiary, Pursuant to a final judgment of the criminal court of Cook county, rendered on the 29th day of Dec. 1953, in cause No. Gen. 53-1483 upon a trial for the crime of *Armed Robbery*. And sentence them to not less than

Judson Griffin (Five 5) years nor more than Ten (10) years; (James Crenshaw not less than Ten (10) years, nor more than Fifteen (15) years, in the Illinois state penitentiary.

(5). The petitioner's further state that they have not sought relief by any other remedy.

20. STATEMENT OF FACTS—POINT NUMBER ONE:

(1). That failure of the state of Illinois to provide any method by which these indigent defendants could obtain an order from the trial court to secure without cost to themself a transcript of the testmony, proceedings and common law record of the trial resulting in their conviction, inless under sentence of death, is an effective *deterrent to obtaining direct review by appeal* in violation of the Due process and Equal protection clause of the Fourteenth Amendment to the United State's Constitution and a-tic-al- (2, section 2 and 19, of the Illinois Constitution; that any trial conducted under condition which tend to destroy Due Process and Equal Protection of law concepts of universal recognition in Anglo-Saxon jurisprudence, such as the right to nor be denied justice by a sover-ig-ty, or obstructed from obtaining justice; that the very thought that justice is only for "Rich" is repugnant to the most conservative sense of fair play;

(2). That the petitioner's herein following their conviction, by and through their counselers made a motion for a new trial (see record) and motion in arrest of judgment (see court record) and a motion for a stay of Mittimus (see court record); that all of said Motions were overruled during the proceedings in the trial except the motion for a stay of Mittimus that the petitioner's in their own proper person filed a motion for the transcript of proceedings and court records without cost (see court record); that said motion was overruled by the Chief Justice of the criminal court of Cook county, Charles S. Dougherty, on February 2nd, 1954, without them being called before the bar.

(3). That they are entitled to a direct review as of Statutary right on all of the foregoing motion- presented (and by reference herein made a part of this petition) in which the trial court made final rulings; that to bar in any way wharsoever the petitioner's from purs-ing said statutory right to obtain direct review of all of the alleged errors made by the trial court is a violation of the 14th Amendment to the United States Constitution; that *same* of the questions of presented in the various motions raise serious Federal questions of Constitutional law; that the only thing that stands in the way of the petitioner's seeking direct review is lack of funds and not being under sentence of death; that in the latter reason the petitioner's claims that in a state such as Illinois which has a system of criminal appeals, violates the equal protection clause of the 14th

Amendment to the United State's Constitution by providing "Class Legislation" in favor of allowing transcript and records for one type of convicted person and more for others who likewise stand convicted for infamous crimes; that whether or not a man is sentenced to die in the Electric Chair, or death, is more entitled to his transcript of record to appeal his case than a poor person sentenced to a number of years. which sometimes amounts to entombing the living remains of a person in a mausoleum of eternal deprovation of liberty without a chance for him to have the legality of his conviction heard by an appellate court is Equality (?) under Illinois strange conception of justice; that the very thought of the criminal court of Cook county being a court of last resort to a poor person leaves the petitioner's sold, when they consider how much criticism is directed at the criminal court of Cook county and courts of Cook county responsible and esteemed Federal Officials as well as state Officials.

21 (4). That therefore, the petitioner's are either entitled to the same equal protection as a person with sufficient funds to purchase records for an appeal, or indigent persons under sentence of death to whom the record and transcript are allowed without cost as provided by special "Class legislative law"; that failure to provide the petitioner's with the means of having their cases reviewed make- the criminal court of Cook county a court of last resort to a poor person unless under a sentence of death; that either the state of Illinois provide the petitioners with the transcript and court records without cost or some method whereby they can obtain the same kind of direct review of their case as a poor person with funds, or a person under sentence of death, *or discharge them from custody*, in as much as they, under the present situation, are being held in custody in violation of their state and Federal Constitution- rights as aforesaid.

Wherefore, the petitioner's pray to be brought before the bar of this court whereby they can submit additional evidence in support of their petition; that is the court finds in their favor, to discharge them from custody instanter, as is meet, just and only relief appropriate under the circumstances of this particular type of case; that the petitioner's further pray that a hearing be held promptly without delay at the first date set by the court following the people answer; that all or any continuances asked by the state be in writing and supports by Affidavit and copy served upon petitioner.

Respectfuliy submitted,

JUDSON GRIFFIN,
JAMES CRENSHAW,
Petitioner's, pro se.

22 *Duly sworn to by Judson Griffin and James Crenshaw.*

23 In the Criminal Court of Cook County

STATE OF ILLINOIS,
Cook County, ss:

Indictment for P. C. No. 512

THE PEOPLE OF THE STATE OF ILLINOIS, PLAINTIFFS

versus

GRIFFIN, JUDSON, CRENSHAW, JAMES, DEFENDANT.

APPEARANCE

I hereby enter my appearance for James Crenshaw and Judson Griffin, Defendant, in the above entitled cause.

LEE J. SPIVACK,
Attorney for Defendant.
134 N. LaSalle
Telephone Tr-2-1266

Chicago, Ill., May 29, 1954.

24-25 In the Criminal Court of Cook County

[Title omitted]

MOTION TO DISMISS

Now comes the Respondent, People of the State of Illinois by John Gutknecht, State's Attorney of Cook County, Illinois, and Allen H. Dropkin, Assistant State's Attorney, and respectfully moves this Honorable Court to strike the petition heretofore filed herein and to dismiss the proceedings for the following reasons:

1. Said petition fails to allege any substantial violation or substantial denial of a constitutional right under the Constitution of the United States or the Constitution of the State of Illinois.

2. The Supreme Court of Illinois in the unpublished memorandum order Number 1260 entitled "People of the State of Illinois, Respondent in Error vs. Dewey K. Billingsley, Plaintiff in Error, handed down January 25, 1952, wherein it was alleged that the requirement of a bill of exceptions deprives the defendant of due process and equal protection of the laws by discriminating between wealthy and well-represented defendants and poor and poorly represented defendants, held that such allegations do not raise substantial issues under the Constitution of Illinois or of the United States.

WHEREFORE, Respondent prays that an order be entered by this Court striking the petition of the Petitioners, Judson Griffin and James Crenshaw, and dismissing the proceedings.

PEOPLE OF THE STATE OF ILLINOIS,
JOHN GUTKNECHT,
State's Attorney of Cook County.
By: ALLEN H. DROPKIN,
Assistant State's Attorney.

61-62 Clerk's Certificate to foregoing transcript omitted in printing.

63 In the Supreme Court of Illinois

Error to Criminal Court Cook County P. C. 512

No. 1860

PEOPLE STATE OF ILLINOIS, DEFENDANT IN ERROR

vs.

JUDSON GRIFFIN AND JAMES CRENSHAW, PLAINTIFFS IN ERROR

ORDER—Entered November 18, 1954

Petitioners seek leave to sue as poor persons and move for Writs of Error to review judgments of the Criminal Court of Cook County which denied, without a hearing, petitions for relief under the Post Conviction Hearing Act. Leave to sue as poor persons is allowed.

In 1953, petitioners were convicted of the crime of armed robbery. Judson Griffin was sentenced to the penitentiary for a term of not less than five nor more than ten years and James Crenshaw was sentenced to a term of not less than ten nor more than 15 years.

Petitioners' sole contention is that they were deprived of due process of law and the equal protection of the laws, in that they were financially unable to purchase a bill of exceptions and were, therefore, unable to obtain a complete review by this Court.

This charge presents no substantial constitutional question and the Writs of Error are, therefore, denied.

64 Clerk's Certificate to foregoing transcript omitted in printing.

65 SUPREME COURT OF THE UNITED STATES—October Term, 1954

No. 416 Misc.

On petition for writ of Certiorari to the Supreme Court of the State of Illinois.

ORDER ALLOWING CERTIORARI—May 22, 1955

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed in *forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby granted and the case is transferred to the appellate docket as No. 815.

Illinois

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Lamar, *A Unique and Unfamiliar Chapter in Our American Legal History*, 10 A.B.A. Jour. 513 (1924) . . . 30
Lindsay, 33 Rep. N.Y. State Bar Ass'n 34 (1910) . . . 64
McKechnie, *Magna Carta* (1914), pp. 127, 395-398 . . . 45
O'Halloran, *History of English Criminal Appeals* (1949), 27 Can. Bar. Rev. 153 . . . 47
Orfield, *Criminal Appeals in America* (Jud. Adm. Ser. 1939), pp. 22-28 . . . 47, 50, 52
Orfield, *Criminal Procedure from Arrest to Appeal* (Jud. Adm. Ser. 1947), p. 489 . . . 60
Parker, *The Integration of the Federal Judiciary*, 56 Harv. L. Rev. 563, 573 (1943) . . . 56, 80
Perkins, *Cases on Criminal Law and Procedure* (1952), pp. 767-770 . . . 48
Philbrick, *The Laws of Illinois Territory, 1809-1818* (Ill. Hist. Coll. 1950) pp. xxi-xlix . . . 51
Pollock and Maitland, *History of English Law*, (2d Ed. 1909), p. 195 . . . 45
Pound, *Appellate Procedure in Civil Cases* (Jud. Adm. Ser. 1941) p. 360 . . . 61
Radin, *Anglo-American Legal History* (1936), p. 229 . . . 46
Radzinowicz, *A History of English Criminal Law and Its Administration from 1750, The Movement for Reform, 1750-1833* (1948) . . . 46
Report, 34 Rep. A.B.A. 578 (1909) . . . 61
Report, N.Y. Crime Commission (1927), p. 45 . . . 25
Smith, Reginald H., *Justice and the Poor* (1919), p. 3 . . . 45
Stephen, *History of Criminal Law of England* (1883), Vol. I, c. 10 . . . 47
Thompson, *Magna Carta* (1948), pp. 365, 380 . . . 45
Vernier and Selig, *The Reversal of Criminal Cases in the Supreme Court of California*, 2 So. Calif. L. Rev. 21, 36 (1928) . . . 25
von Moschzisker, *Trial by Jury* (2d Ed. 1930), secs. 222-224 . . . 50